

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

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In the Matter of)
)
Advanced Television Systems) MM Docket No. 87-268
and Their Impact upon the)
Broadcast Service) FCC 97-115; 97-116
)

To: The Commission

OPPOSITION TO SUPPLEMENT TO
PETITION FOR RECONSIDERATION

Brooks Broadcasting, LLC ("Brooks"), operator of television station KASW, Channel 61, Phoenix, Arizona, hereby opposes the Supplement to Petition for Reconsideration filed by Univision Communications, Inc. in the instant proceeding.

KASW is a full-service television station broadcasting on Channel 61 in Phoenix, Arizona. KASW, the WBN affiliate in Phoenix, went on the air over two years ago.

Univision operates low power television station K52AO, Tucson, Arizona. In the Supplement, Univision seeks reconsideration of the allotment of DTV Channel 52 to Tolleson, Arizona, on the basis that the Tolleson DTV allotment would preclude continued operation by Univision on low power Channel 52 in Tucson.

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The DTV allotment on Channel 52 is to be paired with NTSC Channel 51 in Tolleson, Arizona, which is a suburb of Phoenix. A permit for construction of television broadcast station KAJW on Channel 51 in Tolleson is outstanding, but KAJW is not yet on the air.

In order to provide for the continued operation of K52AO, Univision suggests that the Commission allot DTV Channel 53 to Tolleson for KAJW. Unfortunately, Channel 53 is eight channels removed from Channel 61. Allotments eight channels removed from each other are proscribed by Table II to current Section 73.698 of the Commission's Rules, and by the separations standards adopted in this Docket.¹ As Univision concedes, a DTV operation on Channel 53 would cause interference to the NTSC operation of KASW. Although the predicted area of interference is not large, Brooks takes any potential for interference to its signal seriously.

Univision's proposal would, in effect, amount to a grant to K52AO of primary status as a television station, with KASW being relegated to secondary service. This would reverse the existing priorities in the Commission's system of television broadcast regulation. Univision, rather than accepting low-power broadcasters' responsibility for avoiding interference to full service broadcasters, proposes

¹See Section 73.623 of the Rules. Although the Commission eliminated certain other UHF "taboos" in connection with the DTV proceeding, the separation requirement for allotments eight channels removed from each other was not disturbed.

that KASW accept interference from KAJW in order to allow K52AO to continue its present operation without change.

Although KAJW is not yet on the air, Brooks assumes that it may begin broadcasting at any time, and that it eventually will commence broadcasting on its DTV allotment while KASW is still operating on Channel 61. Brooks suggests that if KAJW's allotment remains on Channel 52, Univision should be able to broadcast on a different channel in Tucson during the transition to DTV. It appears, for example, that a low power operation in Tucson on any of Channels 63 through 66 should not cause interference to any KASW or to any other broadcast operations in the Phoenix or Tucson areas. Following the termination of NTSC broadcasts, there will be ample spectrum below Channel 60 to accommodate Univision's Tucson service.

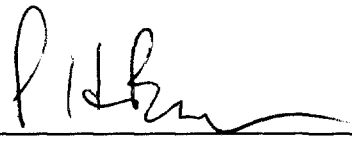
Alternatively, it appears that a substitute DTV channel is available for KAJW in Tolleson. Brooks believes that, as suggested by MSTV, the use of DTV Channel 55 by KAJW would not pose any significant interference concerns. Brooks would not object to the allotment of DTV Channel 55 in Tolleson if necessary in order to allow K52AO to remain on its present channel in Tucson.

In conclusion, the proposed allotment of DTV Channel 53 to Tolleson is unacceptable. Brooks would support either an alternate interim allotment for the

Tucson low power operation, or the allotment of full service DTV Channel 55 to Tolleson.

Respectfully submitted,

BROOKS BROADCASTING, LLC

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Dated: September 26, 1997

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To: The Commission

MOTION FOR LEAVE TO FILE OUT OF TIME

Brooks Broadcasting, LLC ("Brooks"), permittee of KASW (TV), Channel 61, Phoenix, Arizona, requests leave to file out of time its attached Opposition to Univision's Supplement to Petition for Reconsideration.

The Sixth Report and Order allotted DTV Channel 52 to station KAJW, whose NTSC allotment is Channel 51 in Tolleson, Arizona. Univision's Supplement requested a DTV allotment of Channel 53 for KAJW. Because Channel 53 is eight channels removed from Channel 61, even Univision's engineer predicts interference to KASW in Phoenix. Brooks was not served with a copy of the Univision Supplement, but learned of its existence through the courtesy of another broadcaster. Counsel for Univision kindly responded to the request of counsel for Brooks and supplied a copy of the Univision pleading.

In order to provide the Commission with the benefit of a more complete record, it is important that the Commission hear from Brooks as to its unwillingness to suffer interference from a potential DTV operation of KAJW on Channel 53.


Unfortunately, recent severe weather events in Arizona in the form of Hurricane Nora have limited KASW's ability to avail itself of the advice of its consulting engineer on this issue until now.

In order to avoid any prejudice to the affected stations, Brooks is serving counsel for KAJW and Univision with a copy of this Motion and of the Opposition by hand this date. Thus, the other parties will still have a full five days within which to reply to the Opposition.

In view of the foregoing, Brooks requests that the Commission grant this Motion and accept the attached Opposition.

Respectfully submitted,

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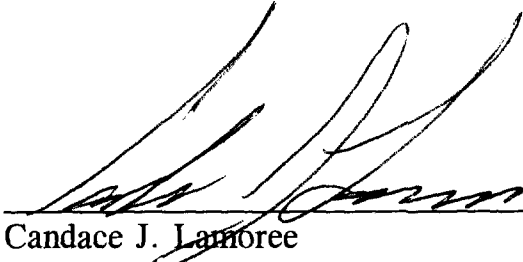
Dated: September 26, 1997

CERTIFICATE OF SERVICE

I, Candace J. Lamoree, hereby certify that on this date I caused the foregoing "Opposition to Supplement to Petition for Reconsideration" and "Motion for Leave to File Out of Time" to be served via hand delivery on the following:

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Candace J. Lamoree

Dated: September 26, 1997